

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

ADAM HACKETT,
PLAINTIFF,
V.

C.A. NO. 06-426 JSF

CORRECTIONAL MEDICAL SERVICES,
INC.
DEFENDANT,



PLAINTIFF'S MOTION TO STRIKE
DEFENDANT'S CORRECTIONAL MEDICAL
SERVICES INC'S MOTION FOR SUMMARY
JUDGEMENT PURSUANT TO FEDERAL
RULE'S OF CIVIL PROCEDURE 12(F)
FOR INSUFFICIENT DEFENSE, IMMATERIAL
IMPERTINENT OR SCANDALOUS MATTER

THE HONORABLE JOSEPH J. FARNAN SR.
J. CALLED Boggs FEDERAL Building
c/o OFFICE OF THE CLERK
844 N. KING STREET
ROOM 4124, Lockbox 27
Wilmington, DE 19801

MR. ADAM HACKETT #03291697
DELAWARE CORRECTIONAL CENTER
1181 Paddock Road
Building 22 B Lower One
SMYRNA, DE 19977

APRIL 17, 2008

NOW COMES, PLAINTIFF ADAM HACKETT, PROSE,
AND RESPECTFULLY MOVES THIS HONORABLE COURT TO
STRIKE DEFENDANT CORRECTIONAL MEDICAL SERVICES,
INC.'S, "MOTION FOR SUMMARY JUDGEMENT". PURSUANT
TO FEDERAL RULES OF CIVIL PROCEDURE 12(F).

FOR GOOD CAUSE REASONS TO STRIKE ARE THE
FOLLOWING:

1. TO THE BEST OF MY KNOWLEDGE AND BELIEF, DEFENDANT CMS
WAS BEING REPRESENTED BY "AMY A. QUINLAN ESQ". OF MORRIS JAMES,
LLP. COUNSELOR QUINLAN'S, LAST LETTER TO ME WAS, DATED FEBRUARY
16, 2008. IN RELEVANT PART SHE SENT ME A COPY OF MY MEDICAL RECORDS.
AND SHE INFORMED ME THAT SHE REVIEWED THE MATERIALS AND DO NOT
BELIEVE THAT THEY ARE SUBJECT TO THE CONFIDENTIALITY AGREEMENT.
WHICH SHE FORWARDED. SHE FURTHER ADVISED THAT, IF I SOUGHT ADDITIONAL
DISCOVERY, AT THAT TIME SHE MAY REQUEST ME TO SIGN A CONFIDENTIALITY
AGREEMENT, TO THE EXTENT IT IS APPLICABLE. CONCLUDING, SHE EXPRESSED
THAT SHE LOOKED FORWARD TO RECEIVING MY ANSWERS TO INTERROGATORIES
BY THE MARCH 21, DEADLINE.

2. IN REPLY TO COUNSELOR QUINLAN'S LETTER OF,
2/18/08. PLAINTIFF, SENT INTERROGATORIES, AND
A COVER LETTER REQUESTING A COPY ON DR. BARNETT'S
DEPOSITION. THESE DOCUMENTS WERE SENT ON MARCH 3,
2008. THERE HAS BEEN NO REPLY FROM COUNSELOR QUINLAN
SINCE HER LETTER OF 2/18/08.

3. However, Plaintiff, was taken by surprise when a motion for summary judgment was filed on behalf of CMS by an attorney, James E. Druec, of Balick & Balick, LLC. I had a reasonable expectation that Counselor Quinlan, would send me the requested copy of Dr. Barnett's deposition. She did not.
4. The Defendants motion for summary judgment, should be stricken for several reasons. Starting with Amy A. Quinlan's legal negligence for her failure to exercise a responsible level of performance which was expected of her per her letter to me of 2/18/08, she provided no fair warning or notice of any intent to withdraw from the case. As a result, of her departure, I, have been ambushed by the appearance of a new legal Counselor and a different law firm. Although, Counselor Quinlan's and Druec could care less. Plaintiff, is the victim in this case and their actions and inactions may be in violation of Federal Rules of Civil Procedure 5(e), 9(b), 10(b), & 11(c) as well as possible violations of the Delaware Lawyer's Rules of Professional conduct.
5. THE MOTION FOR summary judgment filed on April 1st, 2008. by Counselor Druec. Does, indeed manipulates and misstates, Plaintiff's burden of going forward:

1. To gain an unfair Advantage, Counselor Druec, Attaches to it's Motion for Summary Judgement A so called "Sealed Exhibit (B)" Exhibit (B) is A MEMORANDUM OPINION. "Generally, when a case is decided by MEMORANDUM OPINION it shall be designated 'MEMORANDUM OPINION'. Shall not be Published, And Shall Not be cited OR Relied on for ANY Reason in ANY UNRELATED CASE.
2. Further more, Counselor Druec, misstates, Plaintiff's burden of going forward And has manipulated And misrepresented the facts Presented to the Court to claim Entitlement to A Judgement in it's FAVOR AS A MATTER OF LAW.
- (A) STRANGELY, Counselor DRUEC, indicates that, Plaintiff has offered NO EXPERT MEDICAL testimony AS to the APPLICABLE STANDARD OF CARE, ANY Breach there of, OR CAUSATION OF INJURY ARISING there from. that without Such testimony, Plaintiff cannot submit his case to the Jury. IN Addition Defense Counselor DRUEC, on behalf of CMS states that: IN order to show 'deliberate indifference' Plaintiff must demonstrate AN Act OR omission And A sufficient culpable state of mind on the PART of the defendant.
6. Plaintiff, asserts that Justifiable Cause Exist to, have Defendant CMS motion for Summary Judgement Stricken for insufficient defense, immaterial, impertinent OR SCANDALOUS MATTER PURSUANT to FRCP 12(F) because:

- (A) Plaintiff, A Prison inmate And held in A Maximum Security housing unit. Did in good Faith try to Elicit help from an "Expert" to Aid in the Substantiation of my Claims. IN Relevant Part Legal Correspondance Sent to Tobin Longwitz, Staff Attorney At the U.S. Department of Justice Civil Rights Division was either impermissibly Confiscated, Stolen or Obtained in collusion to deny me Adequate Access to this Court. These documents were sent for Photo copying on JANUARY 30, 2008.
- (B) Due, to the fact that the U.S. Department of Justice, had ~~Announced~~ Announced on Friday December 29th, 2006. That federal investigators found "Substantial Civil Rights violations" inside four Delaware Prisons And Delaware Correctional Center being one of the four.
- (C) IN Relevant Part, Contrary to CMS's Exhibit's IN Support of their Summary Judgement motion. The Department of Justice, investigation found inadequate sick call systems in place, which directly interferes with inmates access to care for their serious medical needs.
- T. While generally, it appears virtually impossible to win a medical case in court without expert testimony Plaintiff asserts that: "The nine-month investigation, the U.S. Department of Justice underwent involving Delaware Prisons. IN which it issued a report finding Prisoners, in four Delaware Prisons "Suffers harm or are placed at risk of harm from constitutional deficiencies. Such Report's is Presumptively and functionally Equivalent to expert testimony which would be in favor of this Plaintiff's Claims as a matter of Law

PARTICULARLY IN LIGHT OF THE FACT THAT IT IS EVIDENCE THAT Department of Justice And the State of Delaware has entered into an 87 Point Agreement to cure those expert opinionated deficiencies".


8. Plaintiff, asserts that the State AND Department of Justice, has waived any right it may have had to oppose Plaintiff's use of the Reports Findings And the 87 Point Agreement. Because, the "State AND Department of Justice" may not, Arbitrarily And capriciously interfere with this plaintiff or other Prisoner's Rights by Neglecting to serve Sufficient due Process Notice AND An opportunity to be heard The State in An Attempt to gain Advantage. Neglected, to permit Prisoner opportunities to consent to the decisions being made About them or being Able to opt-out. Declaratory Judgement Pursuant to FRCP 57, may protect Plaintiff's Rights from unreasonable ARBITRARY interference?

CONCLUSION

Wherefore, for the forgoing Reasons the Report, And Findings And 87 point Agreement by the Department of Justice And the State of Delaware; NECESSARILY, should qualify on behalf of this; Plaintiff AS Expert testimony CAPABLE of being An, Expert witness Sufficient to Show (i) that Plaintiff, qualified to be A victim of A Serious medical need during the Relevant time OF the Expert Findings AND (ii) the Report And Findings ARE comparable to An undeniable, conceding that there was A Policy or Custom by CMS that indicated deliberate indifference to those needs including the needs of this Plaintiff. For these Reason the Motion to HAVE Defendant Correctional Medical Service, INC; Stricken pursuant to FRCP 12(f) And the Plaintiff's Affidavit in Support of OF Striking it should be granted.

Please Consider

April 17, 2008


ADAM HACKETT #0329697
DELAWARE CORRECTIONAL CENTER
1181 Paddock Road
Building 22 Block ONE
SMYRNA, DE 19977

(12)

Certificate of Service

I, Adam HACKETT, hereby certify that I have served a true and correct cop(ies) of the attached: Motion to Strike
And Affidavit in Support upon the following parties/person (s):

TO: ^{Hon.} Judge Joseph I. Farnham, Jr.
Clerk of U.S. District Court
J. Caleb Boggs Federal Building
844 N. King Street, Room 4124
Lockbox 27, Wilm, DE 19801

TO: MORRIS James LLP
^{Atty} Amy A. Quinlan Esq
500 Delaware Avenue
Suite 1500
Wilmington, DE 19899

TO: Balick & Balick, LLC
^{Atty} JAMES E. DRNEC Esq.
711 King Street
Wilmington, DE 19801

TO: Adam Hackett
#329697
D.C.C.
1181 Paddock Road
Smyrna, DE 19977

BY PLACING SAME IN A SEALED ENVELOPE and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 17th day of APRIL, 2008

Adam Hackett

IM Adm WELKE-TT

LEGAL MAIL

SBI# 3296175 UNIT MA-22 B-1

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD;

SMYRNA, DELAWARE 19977



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